

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF TEXAS

DIVISION

United States District Court
Southern District of Texas
FILED

JAN 09 2014

David J. Bradley, Clerk of Court

PETITION FOR A WRIT OF HABEAS CORPUS BY A
PERSON IN THE STATE CUSTODY

GERRY DICKENS
PETITIONER
(Full name of Petitioner)

HARRIS County Jail
CURRENT PLACE OF CONFINEMENT

vs.
ANDRIAN Gracie
HARRIS County Sheriff's Office
RESPONDENT
(Name of TDCJ Director, Warden, Jailer, or
authorized person having custody of petitioner)

00738334
PRISON ID NUMBER

CASE NUMBER
(Supplied by the Clerk of the District Court)

INSTRUCTIONS-READ CAREFULLY

1. The petition must be legibly handwritten or typewritten, and signed by the petitioner, under penalty of perjury. Any false statement of an important fact may lead to prosecution for perjury. Answer all questions on the proper space on the form.
2. Additional pages are not allowed except in answer to questions 11 and 20. Do not cite legal authorities. Any additional arguments or facts you want to present must be in a separate memorandum.
3. When the clerk receives \$5.00 filing fee, the Clerk will file your petition if it is in proper order.
4. If you do not have the necessary filing fee, you may ask to proceed in *forma pauperis*. To proceed in *forma pauperis*, (1) you must sign the declaration provided with this petition to show that you cannot prepay the fees and costs, and (2) if you are confined in TDCJ-ID, you must send in a certified *In Forma Pauperis* Data sheet from the institution in which you are confined. If you are in an institution other than TDCJ-ID, you must send in a certificate by an authorized officer at your institution certifying the amount of money you have on deposit at that institution. IF you have access or have had access to enough funds to pay the filing fee, then you must pay the filing fee.
5. Only judgments entered by one court may be challenged in a single petition. If you want to challenge judgments entered by different courts, either in the same state or in different states, you must file separate petitions as to each court.
6. Include all your grounds for relief and all the facts that support each ground for relief in this petition.

7. When you have finished filling out the petition, mail the original and two copies to the Clerk of the United States District Court for the federal district within which the State court was held which convicted and sentenced you, or to the federal district in which you are in custody. A "VENUE LIST," which lists U.S. District Court in Texas, their divisions, and the addresses for the clerk's office for each division, is posted in your unit law library. You may use this list to decide where to mail your petition.
8. Petitions that do not meet these instructions may be returned to you.

PETITION

What are you challenging? (Check only one)

- ☐ A judgement of conviction or sentence, (Answer questions 1-4, 5-12 & 20-23) probation or deferred-adjudicated probation.
- ☐ A parole revocation proceeding. (Answer question 1-4, 13-14 & 20-23)
- ☐ A disciplinary proceeding. (Answer questions 1-4, 15-19 & 20-23)
- ☒ A pending case

All Petitioners must answer question 1-4:

1. Name and location of the court (district and county) which entered the conviction and sentence that you are presently serving or that is under attack:
Assignment 8-9-2012 to 12-17-2013 STATE Jail Docket (transfer 12-17-2013)
to 338 COURT PROJECT COURT # 2
2. Date of judgment of conviction: N/A
3. Length of sentence: State Jail Felony
4. Nature of offense and docket number (if known): Forgery - Commercial
Instrument 1357080/1360051

Judgment of Conviction or Sentence, Probation or Deferred-Adjudication Probation:

5. What was your plea? (Check one) ☒ never able Enter plea NOT magisterial
- ☐ Not Guilty ☐ Guilty ☐ Nolo contendere
6. Kind of trial: (Check one) ☐ Jury ☐ Judge Only
7. Did you testify at the trial? ☐ Yes ☐ No
8. Did you appeal the judgment of conviction? ☐ Yes ☐ No
9. If you did ~~appeal~~, in what ~~appellate~~ court ~~did you file your direct appeal?~~
Cause number (if known) 1357080 1360051

What was the result of your direct appeal (affirmed, modified or reversed): N/A

What was the date of that decision? N/A

If you filed a petition for discretionary review after the decision of the court of appeals, answer the following:

Result: N/ADate of result: N/A Cause Number (if known): N/A

If you filed petition for writ of certiorari with the United States Supreme Court, answer the following:

Result: N/ADate of result: N/A

10. Other than a direct appeal, have you filed any petitions, applications or motions from this judgment in any court, state or federal? This includes any state application for writ of habeas corpus that you may have filed.

☐ Yes ☐ No

11. If your answer to 10 is "Yes," give the following information:

Name of court: 338 MOTION for SPEEDY TrialNature of proceeding: MOTION for Speedy Trial - N- COURT APPOINTED ATTORNEY
And Appointed New CounselCause number (if known): 1357088 1360051 TO ACT ON BEHALF of Defendant

Date (month, day and year) you filed the petition, application or motion as shown by a file-stamped date from the particular court

MOTION for Speedy Trial (Date - month - day - year) 11-12-2013(Date - month - day - year) 12-12-2013MOTION to Dismiss Court Appointed Attorney and Appoint new Counsel to Act on Behalf of DefendantGrounds raised: ① State did not make diligent or good faith effort, BRING Accused trial while Incarcerated. ②, violated Right speedy Trial. ③, right speedy Trial to prevent undue and oppressive incarceration. ④, ARRESTED 12-26-2013 Butz County transferred, transferred 8-26-2013 Indicted 8-9-2012Date of final decision: N/AName of court that issued the final decision: 338As to any second petition, application or motion, give the same information:Name of court: 338Nature of proceeding: MOTION To Dismiss Court appointed Attorney and Appoint new Counsel to Act on Behalf of Defendant.

Date (month, day and year) you filed the petition, application or motion as shown by a file-stamped date from the particular court.

- ①. Grounds raised: Effective Assistance of Counsel
②. Counsel has no contact with Defendant
③. Counsel taken no Affirmative action to preserve and protect Defendant valuable rights ④. has no faith and confidence in aforesaid.

Date of final decision: _____

Name of court that issued the final decision: _____

If you have filed more than two petitions, application, or motions, please attach an additional sheet of paper and give the same information about each petition, application, or motion.

12. Do you have any future sentence to serve after you finish serving the sentence you are attacking in this petition?

☐ Yes ☒ No

- (a) If your answer is "yes," give the name and location of the court that imposed the sentence to be served in the future:

N/A
N/A

- (b) Give the date and length of the sentence to be served in the future: _____

N/A

- (c) Have you filed, or do you intend to file, any petition attacking the judgment for the sentence you must serve in the future?

☐ Yes ☐ No

Parole Revocation:

13. Date and location of your parole revocation: N/A

14. Have you filed any petitions, applications, or motions in any state or federal court challenging your parole revocation?

☐ Yes ☐ No

If your answer is "yes," complete Question 11 above regarding your parole revocation.

Disciplinary Proceedings:

15. For your original conviction, was there a finding that you used or exhibited a deadly weapon? ☐ Yes ☐ No

16. Are you eligible for mandatory supervised release? ☐ Yes ☐ No

17. Name and location of prison or TDCJ Unit that found you guilty of the disciplinary violation:

N/A

Disciplinary case number: N/A

18. Date you were found guilty of the disciplinary violation: N/A

Did you lose previously earned good-time credits? ☐ Yes ☐ No

Identify all punishment imposed, including the length of any punishment if applicable, any changes in custody status, and the number of earned good time credits lost:

N/A

19. Did you appeal the finding of guilty through the prison or TDCJ grievance procedure?

☐ Yes ☐ No

If your answer to Question 19 is "yes," answer the following:

Step 1 Result: N/A
N/A
 Date of Result: N/A
 Step 2 Result: N/A
N/A
 Date of Result: N/A

All applications must answer the remaining questions:

20. State clearly every ground on which you claim that you are being held unlawfully.

Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting them.

CAUTION:

Exhaustion of State Remedies: You must ordinarily present your arguments to the highest state court as to each ground before you can proceed in federal court.

Subsequent Petitions: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

Following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement is a separate ground for possible relief. You may raise any grounds, even if not listed below, if you have exhausted your state court remedies. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your belief that you are being held unlawfully.

DO NOT JUST CHECK ONE OR MORE OF THE LISTED GROUNDS. Instead, you must also STATE the SUPPORTING FACTS for ANY ground you rely upon as the basis for your petition.

- (a) Conviction obtained by a plea of guilty which was unlawfully induced, or not made voluntarily, or made without an understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by the use of a coerced confession.
- (c) Conviction obtained by the use of evidence gained from an unconstitutional search and seizure.
- (d) Conviction obtained by the use of evidence obtained from an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the prosecution's failure to tell the defendant about evidence favorable to the defendant.
- (g) Conviction obtained by the action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (h) Conviction obtained by a violation of the protection against double jeopardy.

(i) Denial of effective assistance of counsel.

(j) Denial of the right to appeal.

(k) Violation of my right to due process ^{to HAVE Magistrate and Examine Trial!} in a disciplinary action taken by prison officials.

A. **GROUND ONE:** UnConstitutional detained and
Questioned! when approached by officer no probabable
cause, NO WARRANT.

Supporting FACTS (tell your story briefly without citing cases or law):

Week of 8-4-2012 HPD officer approached
me at my Resedent's to Question me about
CHECK TRANSACTION two months ~~pre~~ Before.
Also Question a Friend of mind Returning from
Golf Round.

B. **GROUND TWO:** ONE

Supporting FACTS (tell your story briefly without citing cases or law):

11:30 Morning, Told Him had BEEN victim Identity
Theft (police report on file). According to
several Banks Chase! Bank America! Wells fargo!
Citibank! and Investigation are on going Ask
Him why Question and would like to know my rights.

C. **GROUND THREE:** ONE Said he would contact me, and
I was NOT under Arrest.

GROUND TWO:

Supporting FACTS (tell your story briefly without citing cases or law):

Violation of my right to DUE process to
HAVE Magistrate And Examine
TRIAL

WEnt to 6 Court setting ^{one} just ask
Deputy to Be Magistrated In person 2 J P

D. **GROUND FOUR:** Court and 4 felony week 8-26-2013
went to 1 JP / felony) same court setting Request not

Supporting FACTS (tell your story briefly without citing cases or law):

done on Magistrate Request by JP Court
Request or felony Request, never
has been Magistrated on my JP Court
charges or felony court charges JP Court
did Dismiss the charges felony Court
charges are PENDING last Court Date 12-17-2013 first time.

21. Have you previously filed a federal habeas petition attacking the same conviction, parole revocation, or disciplinary proceeding that you are attacking in this petition?

Each Time Attorney say Investigator coming to get all information never
has investigator come to see me. Yes CASE Transferred to Court that call
Court #2 Deputy was not sure if that a court approved by voter's (1-22-2014) Date

If your answer is "yes," give the date on which each petition was filed, the federal court in which was filed, and whether the petition was (a) dismissed without prejudice or (b) denied.

22. Are any of the grounds listed in paragraph 20 above presented for the first time in this petition?

☐ Yes

☐ No

If your answer is "yes," state briefly what grounds are presented for the first time and give your reasons for not presenting them to any other court, either state or federal.

23. Do you have any habeas corpus proceedings or appeals now pending in any court, either state or federal, relating to the judgment or proceeding under attack?

☐ Yes

☐ No

If "yes," identify each type of proceeding that is pending (i.e., direct appeal, art. 11.07 application, or federal habeas petition), the court in which each proceeding is pending, and the date each proceeding was filed.

Wherefore, petitioner prays that the Court grant him the relief to which he may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on

_____ (month, date, year).

Executed on _____ (date).

GERRAY DICKENS
Signature of Petitioner (required)

Petitioner's current address: _____

HARRIS COUNTY SHERIFF'S OFFICE JAIL
Name: GERARD DICKENS
SPN: 00738334 Cell: 5E3
Street: 701 DORTCH Sam SACIAFO
Houston, Texas 77002

United States District Court
Southern District of Texas
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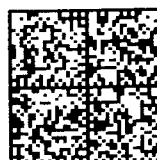
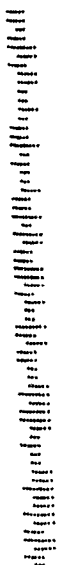
David A. Bradley, Clerk of Court

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